

REMARKS

This application has been carefully considered in light of the Initial Office Action of May 29, 2003. In the Initial Office Action the Examiner objected to the specification at page 13, line 8. The error noted in the objection has been corrected by an amendment to the specification.

The Examiner also objected to the language of the Abstract which is also believed corrected by the amendment submitted herewith.

The Examiner also objected to the drawing Figures as the joists discussed at 41A of page 14, line 3 were not shown in the drawing Figures. The reference to the joists 41A has been added by amending the drawings to reflect a showing of the joists.

The Examiner has rejected claims 8 and 9 for formal reasons as being in improper format. In view of the amendments to the claims submitted herewith, reconsideration of this grounds for rejection is solicited.

Claims 1-3 and 5 have been rejected under 35 U.S.C. 103(a) as being obvious and, therefore, unpatentable over the reference to Helbig, US patent 4,312,423, when considered in view of the

reference to Bogner, US patent 4,361,613.

Claim 4 has been rejected under 35 U.S.C. 103 (a) as being obvious over the primary two references when considered in view of the reference to Mariano, US patent 4,550,534, and in view of Cameron, US patent 4,469,087. Claim 6 has also been rejected over these references.

Claims 1 and 5-9 have been rejected over the reference to Fuller, US patent 4,281,743, when considered in view of secondary references to Bogner et al., Marino, Cameron and Porter, US patent 5,628,158. Claim 13 has been rejected under 35 U.S.C. 103(a) as being obvious and, therefore, unpatentable over Fuller when considered in view of the teachings of Bogner et al. and Porter.

Claim 1, 5, 10, 12, 14 and 18 are rejected under 35 U.S.C. 103(a) as being obvious and therefore unpatentable over Sciambi et al., US patent 4,591,022, when considered in view of Bogner et al.

Claims 15 and 17 have been rejected under 35 U.S.C. 103(a) as being obvious over Sciambi et al. when considered in view of Bogner et al. and further in view of Semon, US patent 3,855,741.

Claim 16 has been rejected under 35 U.S.C. 103(a) as being obvious and, therefore, unpatentable over Sciambi et al. when considered in view of Bogner et al. and further in view of Fier,

US patent 4,320,126.

Claim 11 has been rejected under 35 U.S.C. 103(a) as being obvious over Sciambi et al. when considered in view of Bogner et al. and further in view of the reference to Fier.

For the reasons discussed below, reconsideration on the grounds for rejection and favorable consideration and allowance of the claims is requested.

The primary references for establishing the combination rejections against the claims are those to Helbig, Fuller and Sciambi et al. Each of these references has been considered but it is not believed to anticipate applicant's invention as set forth in the amended claims. The Examiner has acknowledged that none of the references discloses a concept of providing a fire proof coating or layer to a closure for an access opening to an attic as is the case with the present invention. In this respect, the Examiner has cited the teaching of a composite construction material disclosed in Bogner et al. Although applicant disagrees with the Examiner assessment that it would be obvious to one of ordinary skill in the art to combine the teaching of Bogner et al. with any of the primary references, even if one were to combine the teachings, it is respectfully submitted that the resultant structure would not anticipate applicant's invention as set forth in the amended claims.

Claim 1 has been amended to specifically define that the closure member includes a depending central body portion of a size to complementary fit within the frame defining the access opening and such that the depending central body portion has an outer peripheral surfaces which sealingly engage the frame defining the access opening. Such a structure is not disclosed by any of the primary references. With applicant's structure, the cover is more rigidly secured within the access opening and provides for a greater air seal at the area of the access opening. The cited primary reference generally provide for a seating of the cover over the top of the frame or on top of a secondary frame associated with the cover but wherein the cover does not cooperate within the secondary frame, as is the case with the present invention as set forth in claim 1.

The reference to Helbig discloses a container which may be converted into an attic access opening cover and in one embodiment includes a secondary generally u-shaped, in cross-section, container member which may be mounted so as to be supported by a frame supporting a folding ladder, as is shown in Fig. 7 of the drawings. The structure, however, does not disclose providing a depending central body portion of a size to complementary fit within the frame defining the access opening as is the case with the present invention so as to provide for the

continuous seal. Rather, in this reference, the secondary closure member, when inverted, provides a peripheral lip on the outer edges thereof which may be seated on the frame but no central portion thereof extends within the access opening as is the case with amended claim 1. Further, there is not laterally extending outer flange for sealing the upper portion of the frame as disclosed in claim 2. Therefore, it is respectfully submitted that the reference to Helbig does not anticipate the structure of claims 1 and 2.

In view of the foregoing, even if one were to combine the teachings of Bogner et al. with reference to Helbig, claims 1 and 2 would not be anticipated and therefore reconsideration of this grounds for rejection is respectfully solicited.

Claims 4 and 6 have also been rejected with respect to the combination of Helbig and Bogner et al. when further considered in view of Mariano and Cameron. However, it is respectfully submitted that one of ordinary skill in the art would not look to either of the secondary references to modify an access cover as disclosed in Helbig. The handle shown at 52 in the reference to Cameron is actually a lever which is designed to be mounted within a structure and not exposed for manipulating a structure, such as manipulating a cover closing an access opening. One could not take the structure disclosed in Cameron and adapt it to

function as a handle in the reference to Helbig without completely modifying the intended purpose and structure of the lever 52. Therefore, it is respectfully submitted that one of ordinary skill in the art, having the reference before them, would not look to take a single component from the reference and use it for purposes of manipulation an access cover, as is the case with applicants invention. In like manner, the reference to Mariano has been considered but is also not believed to teach a structure which one of ordinary skill in the art would use to modify the primary reference to Helbig.

The reference to Fuller has been considered and has been applied as a primary reference against claims 1, 5-9 and 13. As with the reference to Helbig, the reference to Fuller merely discloses an insulated cover which seats above an access opening. There is no disclosure for providing any cooperation between a closure member and the frame to provide an internal friction seal, as is set forth in claim 1. There is also no depending central portion disclosed in the reference to Fuller for providing a frictional engagement for sealing the frame for the access opening. Therefore, even if one were to combine the teachings of the reference to Bogner et al., the resultant structure would not anticipate applicant's structure nor would it provide the same effective air seal and thus would allow a

greater energy loss. In view of the foregoing, reconsideration of the grounds for rejection in respect to Fuller is respectfully solicited.

The secondary references to Mariano and Cameron are not believed to teach a structure which would be obviously combinable for the same reasons as discussed above with respect to the reference to Helbig. It should be noted with respect to the references to Mariano and Cameron that the present invention is providing an insert to reinforce a relatively non-rigid body. The references relied upon by the Examiner do not teach such structures but rather disclose operating mechanisms mounted within closure panels where the panels themselves are rigid and thus do not face the same problem which applicant has resolved by providing the insert, as disclosed in the present application, for supporting the handle. The Examiner has not cited a reference which provides for an insert for the specific purpose and within an environment where the handle is to be operatively supported by a non-rigid body such as an expanded polymeric material. Neither of the references relied upon for teaching the handle insert are confronted with this problem.

The reference to Porter has only been cited to show providing adhesive between panel pieces. However, there is no disclosure for providing a sectional access panel as is set forth

in applicants claims wherein sections are designed to provide a tortuous seal allowing the sections to be first inserted through an access opening and thereafter brought together and adhesively secured in such a manner such that passage of air is prevented therebetween.

The reference to Porter teaches that a separate strip may be provided between two adjacent panels wherein an adhesive is provided on either side of the strip such that the strip functions as a portion of the seal between the panels. This is not believed the same as an inter-fitting relationship as is set forth in the present claims.

In view of the foregoing, reconsideration of the rejection of the claims with respect to the reference to Fuller and the secondary reference cited therewith is respectfully solicited.

The third primary reference relied upon for formulating a rejection of the claims for obviousness is the reference to Sciambi et al. This reference discloses an insulation closure for sealing an opening wherein a frame is designed to be seated around the opening on which is seated a cover. The cover includes a plurality of separate blocks which are hingedly connected to one another. The cover rests upon the insulation frame above the access opening.

Unlike present claims 1 and 14, there is no suggestion

providing a closure member which seats within the access opening by providing a depending central portion as defined by claim 1 nor fitting within a secondary insulated frame as in claim 14. Further, it would not be obvious to modify the cover disclosed in the reference to Sciambi et al. as the cover used therein is specifically hinged on one end and thus is not designed to be fitted within the frame positioned below it. Therefore, it would not be obvious to modify the structure to provide for a depending portion for cooperating within an internal portion of the frame to provide for a seal, as is the case with applicant's invention as set forth in claim 14.

In rejecting claims 15 and 16, the Examiner has suggested that it would be obvious for one of ordinary skill in the art having the reference to Semon before them, to reconfigure the structure of the primary reference to Sciambi et al. to include a central depending portion. However, applicant respectfully disagrees with the Examiners analysis. The reference to Semon discloses a closure for a fire resistant container and is not considered analogous art. The container is provided with a plug which is designed to close an opening in the container. However, the structure disclosed in the reference to Sciambi et al. is not designed and will not function like a plug. The cover is designed to fold and accordion and cover the secondary frame

associated therewith but not to plug the opening therein. Therefore, one would have to do away with the inventive teachings of the reference to Sciambi et al. in order to make the combination. Such a changing of the structure away from its intended use would not be an obvious modification.

In a like manner, the Examiner has cited the reference to Fier disclosing a tapered closure member. However, the tapered closure member is a manhole cover support ring and is believed to be non-analogous art. Further, there is no incentive to modify the cover in Sciambi et al. to provide for a tapered plugging cover because Sciambi et al., as discussed above, does not function as a plug member but as an overlapping cover. Again, to modify the structure of Sciambi et al. to provide for a tapering engagement between a closure member and frame would be to do away with the teachings of the reference Sciambi et al. and such would not therefore be an obvious modification of the structure cited therein.

An additional inventive feature of the present invention, which is distinguishing with respect to the prior art, is specifically set forth in claims 2, 15 and new claim 28. In each of these claims, it is specifically defined that the closure member includes an upper flange specifically designed for creating a seal along the upper surface of the insulating

material frame which supports the closure member. therefore, not only is there an initial seal created with the interior surface of the frame there is also a seal created along the upper edge. This double seal prevents contaminants from passing through or between the components of the cover and increases the overall insulating and air sealing characteristics of the cover when in use within an attic. Such a double seal structure which prevents energy loss is not disclosed by the primary references relied upon.

The present invention is further innovative with respect to the prior art in that the covers may be used with any size of access opening. As there is no standard size of attic access openings, it is important that an access cover be functional with any size opening. The prior art structures are manufactured for specific sizes and these cannot be used universally with openings of different sizes. However, with applicant's invention the closure member may be formed of at least two components which can be joined during installation. In this manner, even if the closure member of the present invention is larger than the access opening to an attic, the components of a smaller size may be inserted through the access opening into the attic and thereafter assembled. Thereafter, the cover is positioned in covering relationship to with respect to the access opening. By allowing

the at least two components to be adhesively joined after being inserted through the access opening, the assembly can be easily placed into proper position to thereby insulate as well as close substantially any size of access opening to an attic.

In view of the foregoing, reconsideration of the grounds for rejection is respectfully solicited and favorable consideration of the claims currently pending is respectfully requested.

In the event the Examiner has any question concerning the allowance of any of the claims with respect to the prior art, applicant respectfully requests a personal interview with the Examiner prior to any action which may be considered final.

Should the Examiner have any question which can be responded to quickly by telephone, the Examiner is invited to contact the undersigned attorney of record at the telephone number shown below.

In light of the additional claims submitted herewith, fees are being submitted for two additional claims over the twenty allotted. Five claims have been cancelled leaving a total of 22

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for which fees for the first twenty have been paid. Any
deficiencies in the fees may be charged to Deposit Account 04-
1577.

Respectfully submitted,

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